

RURAL TELECOMMUNICATIONS GROUP

the voice of rural wireless telecommunications providers

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MEMORANDUM

To: Magalie Roman Salas, Secretary
Federal Communications Commission

From: Caressa D. Bennet, Regulatory Counsel

Date: February 7, 2000

Re: Oral *Ex Parte* Presentation - February 4, 2000

**In the Matter of Amendments to Parts 1, 2 and 101 of the Commission's Rules
To License Fixed Services at 24 GHz; WT Docket No. 99-327**

**In the Matter of Auction of Licenses for Fixed Point-to-Point Microwave
Services in the 38.6 to 40.0 GHz (39 GHz) Band; DA 99-2624**

**In the Matter of Rulemaking to Amend Parts 1, 2, 21 and 25 of the
Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to
Reallocate the 29.5-30.0 GHz Frequency Band, to Establish Rules and Policies
for Local Multipoint Distribution Service and for Fixed Satellite Services; CC
Docket No. 92-297**

**Wireless Telecommunications Bureau Seeks Comment on SBC
Communications Inc.'s Request for Waiver of the Eligibility Requirements for
Participation in the Upcoming PCS C and F Block Auction; DA 00-145**

**Wireless Telecommunications Bureau Seeks Comment on Nextel's Petition for
Expedited Rulemaking, DA 00-191**

On February 4, 2000, Caressa D. Bennet, Edward D. Kania and Donald L. Herman of Bennet & Bennet, PLLC, representing the Rural Telecommunications Group ("RTG"), participated in a telephone conference call with Steven Weingarten, Stacy Jordan, Greg Vadas and Louis Sigalos of the Federal Communications Commission's ("FCC" or "Commission") Wireless Telecommunications Bureau concerning issues relating to the above proceedings. Also participating on the call were RTG members Colorado Valley Telephone Cooperative, represented by Mark Rutherford, Assistant General Manager; Leaco Rural Telephone Cooperative, represented by John Smith, General Manager; Central Texas Telephone Cooperative, Inc., represented by Delbert Wilson, Assistant General Manager; and CMRS of St. Cloud, represented by Shannon Nies.

39 GHZ Auction: DA 99-2624

RTG's representatives expressed concern that the FCC would be offering 39 GHz licenses on an Economic Area (EA) basis. RTG's representatives explained that rural telecommunications providers, such as RTG's members, are financially unable to acquire large, EA-sized licenses. Therefore, most rural providers would not be capable of participating in the 39 GHz auction. Given that these rural providers are often the only entities with an interest in providing basic and advanced telecommunications services to rural areas, the Commission's decision will thwart the roll-out of these services to rural areas, in conflict with the goals of Sections 309(j) and 706 of the Communications Act of 1934, as amended.

RTG also expressed concern regarding the timing of the auction. The FCC has scheduled the UHF spectrum auction and the 39 GHz auctions to occur nearly simultaneously. Although both spectrum blocks are appealing to rural carriers, these carriers are financially and administratively unable to participate in both auctions since they are occurring so close together. Putting together the business analysis and the manpower to prepare for and participate in one auction places enough of a severe strain on small rural carriers. Trying to participate in two is impossible. Consequently, rural carriers will miss out on a valuable opportunity to expand their service area to cover more remote areas. Once again, rural Americans will be denied advanced services, in conflict with Sections 309(j) and 706.

24 GHz Auction

RTG reiterated RTG's position set forth in its comments in this proceeding. RTG's representatives urged the Commission staff to offer the 24 GHz licenses on a Metropolitan Statistical Area (MSA)/Rural Service Area (RSA) basis or on a Basic Trading Area (BTA) basis. By offering the licenses on a smaller geographical area, the Commission will ensure that such licenses are accessible to rural providers who can then use the spectrum to provide advanced telecommunications services to rural America. RTG added that FCC encouragement of partitioning/disaggregation of larger licenses will not lead to the placement of rural spectrum in the hands of rural providers since most larger carriers are unwilling to enter into partitioning/disaggregation agreements with rural carriers. Similarly, offering auction bidding credits, in itself, will not allow rural carriers to acquire EA-sized licenses. Consequently, the Commission should offer the 24 GHz licenses on a smaller geographic area basis.

LMDS In-Region Eligibility Restrictions: CC Docket No. 92-297

RTG reiterated its position set forth in its comments in this proceeding. RTG wholeheartedly supports the sunset of the LMDS in-region eligibility restrictions on June 30, 2000. RTG stated that the LMDS in-region restrictions no longer serve any purpose; yet, such restrictions continue to thwart rural LECs' attempts to bring advanced services to those customers which cannot currently receive such services. RTG's representatives also noted that most commentors supported the notion of not extending the LMDS in-region restrictions. RTG also noted the fact that Winstar and Nextlink, two of the largest LMDS A Block license holders, did not file comments in this proceeding. The lack of comments from these companies indicates that they have no interest in selling their licenses to incumbent cable operators or LECs. For those reasons, RTG's representatives stated that the eligibility rule

should sunset.

SBC Communications Waiver Request : DA 00-145 Nextel Petition for Expedited Rulemaking: DA 00-191

RTG stated their distress at the abbreviated deadline by which interested parties must file comments in this important proceeding. The FCC issued a Public Notice on January 31, 2000 in this matter, stating that interested parties had only until February 10, 2000 to comment on SBC's request for a waiver of the eligibility restrictions to participate in the PCS C and F Block auctions. The Commission extended the deadline for filing comments until February 14, 2000, after Nextel filed a Petition for Expedited Rulemaking with the Commission on January 31, 2000 which proposes to change the licensing scheme by making 20 megahertz of spectrum available for "bulk bidding." RTG stated the FCC's rush in this proceeding will negatively impact on the rights of small and rural providers such as RTG's membership. RTG is also concerned that the FCC did not adequately take into consideration RTG's members' stake in this issue when deciding on this expedited schedule. RTG expressed concern that the short time frame favors larger companies over smaller ones and further frustrates the ability of small and rural telecommunications companies to participate in the FCC's auction processes.

This memorandum is being submitted electronically pursuant to Sections 1.49(f) and 1.1206(b)(2) of the Commission's rules for WT Docket No. 99-327 and CC Docket No. 92-297.

cc: Stacy Jordan, Wireless Telecommunications Bureau, Room 3A-431
Steven Weingarten, Wireless Telecommunications Bureau, Room C-224
Greg Vadas, Wireless Telecommunications Bureau, Room 3-C437
Louis Sigalos, Wireless Telecommunications Bureau, Room 4-A668